In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 19730 of 2004

Date of Decision: 14.9.2006

Ranjit Singh

....Petitioner

Versus

State of Punjab and others.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. H.S. Mann, Advocate
for the petitioner.

Mr. Ashok Aggarwal, Addl. A.G., Punjab and
Mr. B.S. Chahal, A.A.G., Punjab
for the respondents.

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J.S. Khehar, J. (Oral).

The petitioner is stated to have demanded half a bottle of liquor from one Vijay Kumar. Whereafter the aforesaid Vijay Kumar is stated to have made a complaint to S.I. Baldev Singh against the petitioner. On being confronted by S.I. Baldev Singh, the petitioner is then alleged to have misbehaved with him.

On the basis of the aforesaid allegations, the petitioner was first placed under suspension, and thereupon, a regular departmental enquiry was commenced against him. The Enquiry Officer in his report, arrived at the conclusion, that the charges levelled against the petitioner had been substantiated/proved. It is, therefore, that the petitioner was issued a show

cause notice, whereafter, the Senior Superintendent of Police, vide an order dated 22.6.1993 inflicted the punishment of forfeiture of three years' service permanently, for increments. Additionally, the petitioner was not found entitled to any further salary, except the subsistence allowance paid to him during the period he remained under suspension i.e. for the period from 10.10.1992 to 3.12.1992. Dissatisfied with the order passed by the Senior Superintendent of Police, dated 22.6.1993, the petitioner preferred an appeal. The appeal preferred by the petitioner was dismissed on 31.3.1994, whereupon, the petitioner availed his remedy by filing revision petition. The revision petition filed by the petitioner was dismissed by the Director General of Police, by an order dated 19.10.2004.

Through the instant writ petition, the petitioner has impugned the orders dated 22.6.1993, 31.3.1994 and 19.10.2004.

The solitary contention of the learned counsel for the petitioner is, that the punishment of forfeiture of approved service for increments, does not flow from the provisions of the Punjab Police Rules, 1934 (hereinafter referred to as the 1934 Rules), under which the impugned orders have been passed against the petitioner. In order to substantiate his aforesaid contention, learned counsel for the petitioner has relied on the decision rendered by a Single Bench of this Court in State of Punjab Vs. Joginder Singh, 1992 (3) Service Cases Today, 671, wherein, it has, inter-alia, been held as under:-

> “After hearing the learned counsel for the parties and after going through the findings recorded by the courts below and the relevant rules on the point, this Court is of the firm view that there is no merit in the appeal. Rule 16.2 of the Punjab

> Police Rules specifies certain kinds of punishments to be inflicted but nowhere lays down that approved service of a police personnel with permanent effect can be forfeited. The defendants cannot take advantage from column No.3 of Rule 16.2 of the Rules wherein punishment of stoppage of increment or forfeiture of approved service for increment can be inflicted. The punishment of stoppage of increment or forfeiture of approved service for increment cannot be interpreted to mean that the approved service of a police official with permanent effect can be forfeited. Approved service for increment can be forfeited but not the approved service for a period of three years with permanent effect affecting the rights of a police constable for the purposes of gratuity, pension and seniority. The underlying object in not vesting the authorities under the abovementioned provisions, with powers to forfeit approved service with permanent effect appears to be that an official should not suffer for all times to come in the matter of gratuity, pension and seniority, otherwise, there was no difficulty in making such a provision. In somewhat similar circumstances Delhi High Court in Ram Pat Vs. Union of India and others, 1984(3) SLR 756 did not approve the action of the authorities by which the approved service of a police official for one year permanently entailing reduction in pay was forfeited."

It seems to us, that the relevant statutory provisions were not brought to the notice of the learned single Judge at the time of adjudication of the controversy in the judgement relied upon by the learned counsel for the

petitioner.

We have examined the provisions of the 1934 Rules, and Rule 16.5 thereof in particular. Rule 16.5 of the 1934 Rules, is being extracted hereunder:-

> "16.5. Stoppage of increments. (For Punjab-or Forfeiture of approved service for increment)._ The increment of a police officer on a time scale may be withheld as a punishment. The order must state definitely the period for which the increment is withheld, and whether the postponement shall have the effect of postponing future increments. The detailed orders regarding the grant and stoppage of increments are contained in rule 13.2.
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> (2) Approved service for increment may be forfeited, either temporarily or permanently, and such forfeiture may entail the deferment of an increment or increments or a reduction in pay. The order must state whether the forfeiture of approved service is to be permanent; or, if not, the period for which it has been forfeited.
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> (3) Reinstatement on the expiry of a period fixed under sub-rule (1) or (2) above shall be conditional upon good conduct in the interval, but, if it is desired under this rule not to reinstate an officer, a separate order shall be recorded, after the officer concerned has been given opportunity to show cause why his reinstatement should not be deferred, and the period for which such order shall have effect, shall be stated. Rules regarding the method of recording punishments under this rule in

seniority rolls are contained in Chapter X."

It is apparent from a perusal of Rule 16.5(2) of the 1934 Rules, that it is open to the punishing authority to forfeit approved service for increments. This is exactly the punishment inflicted on the petitioner.

In view of the above, it is not possible for us to accept, that the punishment imposed on the petitioner, does not flow from the provisions of the 1934 Rules. It is, therefore, not possible for us to accept the sole contention of the learned counsel for the petitioner.

While dismissing the instant writ petition, it will also be appropriate for us to set aside the order rendered by this Court in State of Punjab Vs. Joginder Singh, 1992(3) Service Cases Today, 671, wherein the relevant statutory provisions were not brought to the notice of this Court when the matter was adjudicated. Ordered accordingly.

( J.S. Khehar )
Judge.

( S.D. Anand )
Judge.

14.09.2006
sk.